

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CRIMINAL NO. 07-20172

Plaintiff,

DISTRICT JUDGE JOHN CORBETT O'MEARA

v.

MAGISTRATE JUDGE DONALD A. SCHEER

MOHAMMED ABDUL MOHI,

Defendant.

/

SUPPLEMENTAL ORDER

Defendant is charged in a Grand Jury Indictment with Making False Statements, in violation of Title 18, United States Code Section 1001(a) (Count One); Making a False Statement Under Oath in a Matter Relating to Naturalization, in violation of Title 18 United States Code Section 1015(a) (Count Two); and Unlawful Procurement of Naturalization, in violation of Title 18 United States Code Section 1425(a) (Count Three). The Indictment was handed down on April 4, 2007, although the charged conduct occurred on or about June 24, 2004. On May 22, 2007, Defendant filed a Motion for Discovery. The government filed its Response to the Motion on June 5, 2007. Defendant's Motion was referred to the undersigned magistrate judge for hearing and determination.

The government intends to offer at trial the testimony of Andrew Coleman, a Department of Homeland Security Hearing Officer to whom Defendant allegedly submitted the false declarations which are the subject of the Indictment. Defendant seeks production of any materials from Coleman's personnel records which might disclose information favorable to the defense for impeachment purposes. On June 11, 2007, the parties entered into a Stipulation calling for the court to perform an in camera review of Coleman's

personnel record to determine whether it contains admissible evidence favorable to the Defendant on the issue of Coleman's credibility. The Stipulation was accepted by the court in a written Order of the magistrate judge on June 11, 2007. Thereafter, the government submitted a copy of Coleman's personnel file, and the magistrate judge has completed his review.

The record contains no information relating to criminal conduct which might give rise to impeachment under Federal Rule of Evidence 609. Nor does the personnel file contain evidence of specific instances of conduct by Coleman which the court determines are probative on the issue of his truthfulness or untruthfulness.

Four pages of the personnel record relate to administrative errors in Coleman's work during the time frame 2002-2005. Three pages of the record relate to the violation of district reporting procedures in January 2007. Six pages of the record relate to an administrative oversight by Coleman in the adjustment of an alien's status in 2006. I find no record of any disciplinary action taken in connection with any of the administrative lapses.

IT IS THEREFORE ORDERED that Defendant's Motion for Discovery is denied with respect to the personnel file of Andrew Coleman. Provided, however, that counsel for Defendant shall be permitted to view the thirteen pages relating to the above-described administrative lapses, for purposes of determining whether to appeal this Order. The government shall make those pages available for counsel's review within ten (10) days of the date of this Order.

s/Donald A. Scheer
DONALD A. SCHEER
UNITED STATES MAGISTRATE JUDGE

DATED: July 5, 2007

CERTIFICATE OF SERVICE

I hereby certify on July 5, 2007 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on July 5, 2007. **None.**

s/Michael E. Lang
Deputy Clerk to
Magistrate Judge Donald A. Scheer
(313) 234-5217